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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/776,364

02/02/2001

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MICT-0134-US

8094

7590

08/03/2005

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EXAMINER

WEST, JEFFREY R

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 08/03/2005

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GROUP 2800

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/776,364
Filing Date: February 02, 2001
Appellant(s): KRAFFERT, MARK J.

Mr. Dan C. Hu
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 21 December 2004.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

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(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-14, 17-21, and 23-32 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,581,052	SLUTZ	6-2003
5,517,892	FUJIMORI	5-1996
6,513,047	TALLEY	1-2003
5,848,410	WALLS et al.	12-1998
6,393,435	GARTNER et al.	5-2002
5,857,192	FITTING	1-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 5, and 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,581,052 to Slutz in view of U.S. Patent No. 5,517,892 to Fujimori.

Slutz discloses a test generator for database management systems comprising performing a first test with a first test system, performing a second test with a second test system, using test modules (column 4, lines 17-40), in each of the first and second test systems identifying a file name of a data/configuration file to use in each of the first and second tests, and using the data/configuration file in performing the respective one of the first and second tests (column 5, lines 31-55). Slutz discloses performing a plurality of tests in a plurality of systems using the file wherein the tests are performed on a database (column 4, lines 59-65). Slutz discloses performing the test on the database coupled over a network through an interface (column 3, line 66 to column 4, line 4 and Figure 2) and also discloses using SQL query statements to join two separate parameters (column 14, lines 25-59).

As noted above, Slutz teaches many of the features of the claimed invention, and while the invention of Slutz does teach including a user-defined parameter in the configuration file specifically indicating the database to be tested (column 5, lines 33-37), Slutz does not teach combining two strings/parameters to form a filename of the configuration file.

Fujimori teaches an electronic musical instrument having memory for storing tone waveforms and its file name including a control unit and associated routines (column 4, lines 6-15 and column 5, line 13) for receiving a string of characters indicating part of a filename (column 5, lines 49-59), which are manually inputted by a user (column 6, lines 15-19). Fujimori also teaches executing a routine for combining the first

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string of characters with a second string of characters, formed by a software module, to form a file name (column 7, lines 39-50).

It would have been obvious to one having ordinary skill in the art to modify the invention of Slutz to include combining two strings/parameters to form a filename of the configuration file, as taught by Fujimori, and further specifying that one of the parameters indicate the name of the database under test because Slutz already teaches forming a configuration file specific to a particular database under test. Therefore, by combining the name of the database under test with a second common parameter indicating the file to be a configuration file, in the test systems, the combination would have provided a file easily discernable as relating to a specific database as well as indicated what type of file it is. This combination would have provided an easy method for finding a specific configuration file desired and increased the speed of finding the file by eliminating the need to implement the time-consuming process of reading the data included in the filename and instead allowed the unit to search only the filenames themselves. Fujimori further supports this reasoning by indicating that the specific file name forming method would provide indication as to the content of the file just by reading the file name itself making it easier to search for a desired file (column 2, lines 5-10 and 22-26) and reduce the chance of overwriting a generic file by producing files specific for an intended purpose (column 1, line 66 to column 2, line 5).

Claims 3, 4, 14, 17-19, 23, 24, and 27-32 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Slutz in view of Fujimori and further in view of U.S. Patent No. 6,513,047 to Talley.

As noted above, the invention of Slutz and Fujimori teaches many of the features of the claimed invention and while the combination does suggest searching for a desired file name (Fujimori, column 2, lines 5-10) the combination does not specifically disclose searching for the data file in storage for use in testing a database.

Talley teaches the management of user-definable databases comprising a user-interface for accessing a plurality of configuration files stored remotely containing descriptions of the contents of each of a plurality of databases desired (column 1, line 51 to column 2, line 4 and column 4, lines 11-15), wherein the configuration file contains the name of the specific database (column 4, lines 16-22). Talley teaches connecting the user-interface to the database desired through a network (column 3, lines 16-46) and using a corresponding processor and software routine (column 3, lines 47-55) for searching a predetermined storage locations and directories for finding and retrieving the configuration file (column 6, lines 17-39). Talley also teaches connecting the user interface, databases, and remote computers over a network (column 3, lines 12-15).

It would have been obvious to one having ordinary skill in the art to modify the invention of Slutz and Fujimori to include searching for the data file in storage for use in testing a database, as taught by Talley, because the combination of Slutz and Fujimori teaches forming a file that is easily searchable (Fujimori, column 2, lines 5-

10) as well as reading in a specific configuration file for use in a database test (Slutz, column 5, lines 31-33), but doesn't specifically provide the method for reading in this configuration file. Therefore, the combination would have provided a method for reading in this file that allows specific information pertaining to each database desired while allowing access by a plurality of users (column 2, lines 5-16 and column 7, lines 25-31).

Claims 20, 21, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slutz in view of Fujimori and Talley and further in view of U.S. Patent No. 5,848,410 to Walls et al.

As noted above, Slutz in combination with Fujimori and Talley teaches many of the features of the claimed invention including forming a filename based on inputs from a module and/or a user, but does not specifically teach including a default name if a value is not received from the module or user.

Walls teaches a system and method for comprehensively and continuously indexing information stored in one or more sources of information such as a database (column 3, lines 48-50) comprising a file-system identifier that identifies the file system from which an index will be built and analyzes the files of the selected file system to determine information can be extracted from the files (column 11, lines 21-29). Walls also teaches that if a user does not select a file system name when prompted, the file-system definer, part of the file system identifier, provides a default file system name (column 11, lines 50-52).

It would have been obvious to one having ordinary skill in the art to modify the invention of Slutz, Fujimori, and Talley include using a default name if a value is not received from the module or user, as taught by Walls, because the combination would have prevented an interruption in the process if the user fails to respond, as is well known in the art, and, as suggested by Walls, allowed the process to continue by using a value most recently or most frequently selected by the user and therefore using a value that would have been most likely to have been selected by the user if the user were present (column 11, lines 50-55).

Claims 1-14, 17-19, 23-24, and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,393,435 to Gartner et al. in view of U.S. Patent No. 5,857,192 to Fitting.

Gartner discloses a method and means for testing the performance of a database system by referencing files external to the database system using multiple file systems wherein the test files are created in the file systems and a control table in the database management system controls access to the test files (column 2, lines 51-59). Gartner discloses implementing the method by receiving requests from a user via an application programming interface (column 4, lines 30-39) wherein the user supplies a first value, relating to the filename, and a second value, relating to the name of the server/database system under test, (column 5, lines 41-54) over a network using searching and management control units and software routines (column 5, lines 19-29). Gartner then discloses searching the corresponding

database and returning query results including the server/database and filename references which are then used to identify the relevant data file (column 6, lines 16-26). Gartner also discloses that the system is applicable for a plurality of users accessing the system files for multiple tests concurrently (column 3, lines 1-2 and column 4, lines 21-23 and 54-59) and therefore teaches that described method can be performed at different test systems to execute the tests using the same data files.

As noted above, Gartner teaches many of the features of the claimed invention including searching and obtaining data files based on specific filename parameters but does not specifically disclose combining first and second parameters to form a filename.

Fitting discloses a quality control system of a manufacturing system comprising a plurality of test systems, each test system including a controller that configures the test equipment according to one of a plurality of routines so that the test systems are able to executive a plurality of different tests (column 5, lines 15-23). Fitting discloses that the test systems send a request, through a communication interface employing an Ethernet network (column 3, lines 4-10), to a storage database, containing a plurality of files, for retrieval of a test file to be used by the test controller, which is part of a test module (Figure 1) executed in performing the corresponding test (column 5, lines 15-19). Fitting discloses that the test system provides first and second parameters, the first parameter being a predetermined string value and the second parameter being a value indicating the data type of the requested file, to a test controller that performs a routine combining the two

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parameters to form a filename which is sent to the database (column 4, lines 20-39). Fitting then discloses searching the database for a test filename containing the string value and a value corresponding to the second file-type parameter (column 4, lines 53-64).

Further, Fitting describes the entire process of the invention according to the execution of one test system, and therefore does not specifically disclose performing different tests with the different systems using the associated file, however, since Fitting does disclose the invention for sharing files between a plurality of test systems, each able to executive a plurality of different tests (column 5, lines 15-23), Fitting does suggest the execution of different tests, by different test systems, using the same shared file directory and therefore the same aforementioned process would be carried out using each of the subsequent test systems.

Also, although Fitting doesn't specifically disclose that the controller contain a storage medium with instructions executed on it, since the controller of Fitting does execute a plurality of steps to combine the two parameters into a filename, it is considered inherent that the controller must contain some type of program instructing the execution of the combining routine.

It would have been obvious to one having ordinary skill in the art to modify the invention of Gartner to include combining first and second parameters to form a filename, as taught by Fitting, because the invention of Gartner does teach that the first and second parameters are used in combination with each other to specify a location, therefore combining the first and second parameters into one

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string/filename would have provided a functionally equivalent method for indicating a specific file and location. Further, Fitting suggests that the combination would have increased the speed of the search query, to be substantially real-time, by providing descriptive filenames and therefore eliminating the need for the searching unit to implement the time-consuming process of reading the data included in the filename and instead allowed the unit to search only the filenames themselves (column 1, lines 54-59).

Claims 20, 21, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gartner in view of Fitting and further in view of U.S. Patent No. 5,848,410 to Walls et al.

As noted above, the invention of Gartner and Fitting teaches many of the features of the claimed invention including forming a filename based on inputs from a test module or a user, but does not teach including a default name if a value is not received from the test module or user.

Walls teaches a system and method for comprehensively and continuously indexing information stored in one or more sources of information such as a database (column 3, lines 48-50) comprising a file-system identifier that identifies the file system from which an index will be built and analyzes the files of the selected file system to determine information can be extracted from the files (column 11, lines 21-29). Walls also teaches that if a user does not select a file system name when

prompted, the file-system definer, part of the file system identifier, provides a default file system name (column 11, lines 50-52).

It would have been obvious to one having ordinary skill in the art to modify the invention of Gartner and Fitting to include using a default name if a value is not received from the test module or user, as taught by Walls, because the combination would have prevented an interruption in the process if the user fails to respond, as is well known in the art, and, as suggested by Walls, allowed the process to continue by using a value most recently or most frequently selected by the user and therefore using a value that would have been most likely to have been selected by the user if the user were present (column 11, lines 50-55).

(11) Response to Argument

Group 1

Appellant argues that "contrary to the assertion [of] the Examiner, Slutz also fails to disclose the following element of claim 1: the first and second test systems using *the first* data file in performing the respective first and second tests. . . . In column 4, Slutz does mention that 'the test program can be executed in one or more of clients 120 or even in server 130.' Slutz, 4:18-20. However, this teaching must be construed in view of the remaining teachings of Slutz. Slutz focuses on a test program to generate database query language statements that are syntactically correct according to a query language. By use of a configuration file, a test program can generate the desired set of statements. One of the parameters in the

configuration file 400 specifies the name of the database 260. Slutz, 5:33-35. The testing process is not limited to one or more fixed databases for testing a DBBMS, but rather can employ arbitrary, user-selected target databases. Slutz, 5:35-37. To select different target databases, different configuration files would have to be used. It would hardly seem efficient for multiple PC clients of Slutz to run test programs each accessing the *same* configuration file 400—that would result in the *same* test being performed by the test programs in multiple client PCs. Thus it is clear that Slutz does not provide any specific teaching or suggestion that multiple test systems can use the same data file to perform first and second tests.”

The Examiner maintains that Slutz specifically discloses that the testing processes executed by the PC “reads in” a configuration file containing test data (column 5, lines 32-33, “[p]reliminary blocks 310 begin the entire testing process. Block 311 reads in a configuration file 400 containing a set of parameters for the test procedure”) and further specifies that the test data is stored remote from each PC client allowing the test data to be downloaded to and executed at one or more clients (i.e. shared between) (column 4, lines 11-20, “Furthermore, the system can be implemented as a three tier or mutli-tier system. FIG. 1 includes a schematic representations of an external storage medium 133 which may store client and server software for distribution and downloading to clients, and another medium 134, such as a diskette, for offline storage of database tables. Medium 134 can also store instructions and data for the test program of the present invention; the test program can be executed in one or more of the clients 120, or even in server 130”).

The Examiner further asserts that because the multiple PC clients run test programs each accessing the same configuration file, as indicated by Appellant, this does not mean that it would result in the same test being performed by the test programs. Slutz specifically discloses that the configuration file is used in the testing but indicates that the configuration file is selectively accessed to provide the test commands for a specific test being performed. For example, Slutz indicates that "Briefly, the invention achieves these and other objectives by reading configuration data containing a set of test parameters, reading the schema of an arbitrary database, then constructing a number of test statements that are syntactically correct for the DBMS being tested, that are semantically compatible with the target database, and that have content and characteristics pursuant to the configuration data" (column 2, lines 52-59). Therefore, Slutz discloses that the specific test statements used are determined based on the configuration file, but does not state that the configuration file contains the test statements or that the configuration file contains test statements that can only be used to perform one test. Therefore, Slutz does not suggest that the same configuration file will result in the same test being performed in multiple client PC's but instead indicates that each of multiple PC's reads in the configuration file and based on the parameters present in the configuration file, generates test statements for performing a distinct test in each of the multiple PC's.

Further, while as noted above the invention of Slutz does not indicate that the same configuration file would result in the same test being performed at each client

PC, the disclosure of Slutz is comparable to the method disclosed in the instant invention which states "For a test performed by each test system 12, 14, one or more data files are used. The data files contain data that are used for performing data-driven tests on the database 18 or 20. In accordance with some embodiments, a common set of data files 24 are shared by the different tests systems 12, 14. . . By receiving certain parameters, a data source routine 124 is able to identify the name of a data file to use. If in each test system the same parameter values are received, then the data source routine 124 will provide the same file name for identifying the data file to use in each test" (page 2, line 30 to page 3, line 11). Therefore, the instant invention also provides two separate testing systems (comparable to the multiple PC's of Slutz) that execute a test based on the same received file.

Appellant argues that "there was no motivation or suggestion to combine Slutz and Fujimori in the manner proposed by the Examiner. The reliance of Fujimori as suggesting a modification of Slutz to achieve the claimed invention is misplaced. Fujimori relates to an electronic musical instrument having a memory for storing musical tone information containing waveform data and assigning a file name to the file that stores the waveform data. Fujimori, Abstract. As discussed in column 5 of Fujimori, character strings can be entered to form a file name. However, Applicant notes that Fujimori has nothing to do with identifying a file name of a data file to use in *first and second tests* based on plural parameters. All Fujimori would have suggested to a person of ordinary skill is a technique for assigning a file name for

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storing musical tone information. Such a person of ordinary skill in the art would not have been motivated by the teaching of Fujimori to identify a file name of a data file to use, by first and second test systems, in first and second tests based on plural parameters." Appellant further elaborates, "[t]here was absolutely no suggestion whatsoever of any desirability of incorporating a file name combination technique for musical data, as taught by Fujimori, into the database test environment of Slutz.

The Examiner stated that Fujimori was cited only to teach combining two strings/parameters to form a file name. However, the actual teachings of Fujimori cannot be ignored to ascertain whether a person of ordinary skill in the art would have been motivated to combine the teachings of Slutz and Fujimori. Here, the Examiner ignored the actual teachings of Fujimori in arguing that Slutz and Fujimori can be combined to achieve the claimed invention. That is clearly not the case. A person of ordinary skill in the art looking to the teachings of Slutz and Fujimori would clearly not have been led to the claimed invention. Therefore, because no motivation or suggestion existed to combine Fujimori and Slutz, a *prima facie* case of obviousness with respect to claim 1 has not been established for this further reason."

The Examiner maintains that the inventions of Slutz and Fujimori are properly combined since Slutz does teach including a user-defined parameter in the configuration file specifically indicating the database to be tested (column 5, lines 33-37, "Block 311 reads in a configuration file 400 containing a set of parameters for the test procedure. One of the parameters specifies the name of a database 260 to

provide the data tables”), and combining the filename forming method of Fujimori would have provided a simplified method for finding a specific configuration file desired and increased the speed of finding the file by eliminating the need to implement the time-consuming process of reading the data included in the file and instead allowed the unit to search only the filenames themselves. This combination is further suggested by Fujimori by indicating that the specific file name forming method would provide an indication as to the content of the file just by reading the file name itself making it easier to search for a desired file (column 2, lines 5-10 and 22-26, “Further, the file name must be given with some meaning representing the contents of the waveform data in order to presume the contents of the waveform data form the file name” and “Accordingly, it is a primary object of the present invention to provide an electronic musical instrument which is capable of automatically creating a character string representing the property of the musical tone information such as the sampling waveform data”) and reduce the chance of overwriting a generic file by producing files specific for an intended purpose (column 1, line 66 to column 2, line 5, “Moreover, when assigning the file name to the waveform data, there is a possibility in that the file name previously used is assigned to the waveform data to be currently registered by mistake. In such case, new waveform data are overwritten on the file in which another waveform data have already been written, resulting that those waveform data are destroyed by the new waveform data”).

Appellants arguments that the subject matter of Fujimori is different than that of the invention of Slutz corresponds to an argument that the two references cannot be combined due to being non-analogous. The Examiner asserts that it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, since the inventions of Slutz and Fujimori are both reasonably pertinent to the particular problem of filename searching and management, in addition to the previously presented motivation, the combination is proper.

Claim 5

Appellant argues that "[c]laim 5, which depends from claim 1, further recites that each of the tests is performed on a database, and where one of the parameters represents the database. Note that "one of the parameters" referred to in claim 5 is one of the plural parameters that are used to identify a file name of the first data file. There is no indication in Slutz or Fujimori that a parameter that can be used in conjunction with at least another parameter to identify file name represents a database. In Fujimori, the character string FNB1 is manually input (Fujimori, 6:18), and the character string FNB2 represents the name of a note that is written into a register RFNB2 (Fujimori, 7:29-33). FNB1 and FNB2 are combined to identify a name of a file. Fujimori, 6:6-8. However, neither FNB1 nor FNB2 represent a

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"database," as recited in claim 5. This is an additional reason of patentability for claim 5."

The Examiner maintains that the features of claim 5 are not met by the inventions of Slutz or Fujimori individually, but instead are met by the combination of Slutz and Fujimori. As described in the Office Action, Slutz does teach including a user-defined parameter in the configuration file specifically indicating the database to be tested (column 5, lines 33-37, "Block 311 reads in a configuration file 400 containing a set of parameters for the test procedure. One of the parameters specifies the name of the database 260 to provide the data tables 261") but Slutz does not teach combining two strings/parameters to form a filename of the configuration file. Fujimori teaches an electronic musical instrument having memory for storing tone waveforms and its file name including a control unit and associated routines (column 4, lines 6-15 and column 5, line 13) for receiving a string of characters indicating part of a filename (column 5, lines 49-59), which are manually inputted by a user (column 6, lines 15-19). Fujimori also teaches executing a routine for combining the first string of characters with a second string of characters, formed by a software module, to form a file name (column 7, lines 39-50).

Therefore, since the invention of Slutz already teaches forming a configuration file specific to a particular database under test by including a name of the database under test, modifying the invention of Slutz to include combining user defined strings to form the filename, as taught by Fujimori, results in combining the name of the database under test, as taught by Slutz, with a second common parameter indicating

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to reference the specific configuration file. Further, one having ordinary skill in the art would recognize that this combination would have provided a simplified method for finding a specific configuration file desired and increased the speed of finding the file by eliminating the need to implement the time-consuming process of reading the data included in the filename and instead allowed the unit to search only the filenames themselves. Fujimori further supports this reasoning by indicating that the specific file name forming method would provide indication as to the content of the file just by reading the file name itself making it easier to search for a desired file (column 2, lines 5-10 and 22-26) and reduce the chance of overwriting a generic file by producing files specific for an intended purpose (column 1, line 66 to column 2, line 5).

Group 2

Appellant argues that "[w]ith respect to independent claim 6, it is respectfully submitted that there was no motivation or suggestion to combine Slutz and Fujimori to combine first and second values to generate a file name of a test file to use in a test, for the reasons given above. Therefore, *prima facie* case of obviousness has not been established with respect to the claim."

This argument is not persuasive due to the explanation provided above illustrating the desirability of the combining Slutz and Fujimori.

Group 3

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Appellant argues that "with respect to dependent claim 12 (which depends directly from claim 6), Slutz also fails to teach or suggest performing a second test in a second system using *the* test file."

This argument is not persuasive due to the explanation provided above showing the disclosure of Slutz illustrating performance of first and second tests in first and second test systems using the test file.

Group 4

Appellant argues that "the Examiner stated that the combination of Sluts and Fujimori 'does not specifically disclose searching for the data file in storage for use in testing a database.' 3/11/2004 Office Action at 4. Claim 14 does not actually recite such language. The Examiner does not really address why reference is made to the language 'searching for the data file in storage for use in testing a database' with respect to claim 14."

The Examiner asserts that, as explained in the Advisory Action mailed June 24, 2004, claim 14 does include the limitation for "the routine to identify a file name of the data file based on the string", and therefore the invention of Talley is included to explicitly meet this specific identification limitation by searching, identifying, and retrieving a file.

Appellant argues that "[s]imilar to the arguments presented above in connection with claim 1, the hypothetical combination of Slutz and Fujimori does not teach or

suggest combining first and second parameters to form a string, and a routine to identify a file name of a data file (for use in a test) based on the string. Talley also does not teach or suggest a routine to identify a file name of a data file based on a string that is formed from the combination of received first and second parameters. Although Talley discusses searching for a configuration file, it discusses this in the context of searching for the configuration file in a current directory or in a user's home directory. Talley does not teach or suggest identifying a file name of a data file based on a string that is formed from the combination of received first and second parameters.

The Examiner maintains that, as presented above, the invention of Slutz and Fujimori does teach combining first and second parameters to form a string. The invention of Talley is then included to teach a routine to identify a file name specifically teaching the management of user-definable databases comprising a user-interface for accessing a plurality of configuration files stored remotely containing descriptions of the contents of each of a plurality of databases desired (column 1, line 51 to column 2, line 4 and column 4, lines 11-15), wherein the configuration file contains the name of the specific database (column 4, lines 16-22). Talley teaches connecting the user-interface to the database desired through a network (column 3, lines 16-46) and using a corresponding processor and software routine (column 3, lines 47-55) for searching a predetermined storage locations and directories for finding and retrieving the configuration file (column 6, lines 17-39).

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Talley also teaches connecting the user interface, databases, and remote computers over a network (column 3, lines 12-15).

Appellant argues, "there is no motivation or suggestion to combine the teachings of Slutz, Fujimori, and Talley. As noted above, Fujimori is direct to a teaching that is completely unrelated to forming a string from plural parameters to identify a file name of a data file to use in a test. Talley also does not provide any teaching or suggestion of combining parameters to form a string for the purpose of identifying a file name of a data file to use in a test. Therefore, there was no motivation or suggestion to combine the teachings of Slutz, Fujimori, and Talley."

The Examiner maintains that motivation exists to combine the invention of Talley with the invention of Slutz and Fujimori since the combination of Slutz and Fujimori teaches reading in a specific configuration file for use in a database test (Slutz, column 5, lines 31-33), but is silent on how the particular configuration file is read in, and the addition of the teachings of Talley would have provided a specific method for reading in this configuration file and provided increased accuracy and configurability by employing a routine to that allows specific information pertaining to each database desired while allowing access by a plurality of users (column 2, lines 5-16 and column 7, lines 25-31).

Group 5

Appellant argues "Talley does not disclose searching a predetermined directory on a device to find a test file containing a string that is concatenated from received first and second parameters. Talley describes a database interface to access a database configuration file that contains descriptions of contents of each of the databases. Talley, 1:54-57. The configuration file describes the characteristics and contents of a particular database. Talley, 4:17-20. Talley describes operations that look for a configuration file and determines if the configuration file exists in the user's home directory. Talley, 6:18-23. However, looking for the configuration file of Talley is not the same as searching a directory to find a *test* file, as recited in the claim."

The Examiner asserts that the combination of Slutz and Fujimori explicitly defines a configuration file as a test file that is read-in for use in executing a test. Therefore, Talley's teaching of searching predetermined storage locations and directories for finding and retrieving the configuration file (column 6, lines 17-39, "FIG. 8 illustrates an embodiment of the logical operations of the present invention. Operations 80 and 82 determine if there is a configuration file for accessing particular databases within the computing system. Specifically, operation 80 determines if there is a configuration file in the current directory, and if not, operation 82 determines if a configuration file exists in the user's home directory.") does teach searching a predetermined directory to find a test file.

The features specifying that the test file contains a string that is concatenated from received first and second parameters is not suggested to be taught by Talley since it is taught by the combination of Slutz and Fujimori.

Group 6

Appellant argues, "Talley fails to disclose or suggest a routine executable to search a directory to find a file name of one of data files that contains a string concatenated from first and second parameters to use for a test"

As noted above, Talley does teach a routine executable to search a directory to find a file name of one or more data files (column 6, lines 17-39, "FIG. 8 illustrates an embodiment of the logical operations of the present invention. Operations 80 and 82 determine if there is a configuration file for accessing particular databases within the computing system. Specifically, operation 80 determines if there is a configuration file in the current directory, and if not, operation 82 determines if a configuration file exists in the user's home directory"). The features specifying that the file name of one of the data files contains a string concatenated from received first and second parameters to use for a test is not suggested to be taught by Talley since it is taught by the combination of Slutz and Fujimori.

Claim 28

Appellant argues, "[c]ontrary to the Examiner's assertion, there is no teaching or suggestion in Talley of searching a predetermined directory on a device to find a *test* file containing a string that is concatenated from a common parameter."

As noted above, the Examiner asserts that the combination of Slutz and Fujimori explicitly defines a configuration file as a test file that is read-in for use in executing a

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test. Therefore, Talley's teaching of searching predetermined storage locations and directories on a device for finding and retrieving the configuration file (column 6, lines 17-39, "FIG. 8 illustrates an embodiment of the logical operations of the present invention. Operations 80 and 82 determine if there is a configuration file for accessing particular databases within the computing system. Specifically, operation 80 determines if there is a configuration file in the current directory, and if not, operation 82 determines if a configuration file exists in the user's home directory.") does teach searching a predetermined directory to find a test file.

The features specifying that the test file contains a string that is concatenated from a common parameter is not suggested to be taught by Talley since it is taught by the combination of Slutz and Fujimori.

Group 7

Appellant argues, "[n]owhere within the teaching of Gartner is there any indication of *first and second test systems* that (1) receive plural parameters, (2) identify a file name of a first data file to use in the first and second tests, and (3) use the first data file in performing the respective first and second tests. Gartner discloses retrieving an external file reference from a table stored in a database system, with the file name identifying a file in an external file system. The identified file is retrieved from the external file system and used to test the database system. Gartner, 3:5-20. The Examiner stated that the plurality of users and plurality of applications for testing the database are considered to be the first and second test

systems. 3/11/2004 Office Action at 7. This assertion ignores the express language of claim 1, which recites several roles for the first and second test systems. The applications and users in Gartner clearly do not receive plural parameters, do not identify a file name of a first data file to use in the first and second tests based on the plural parameters, and do not use the first data file in performing respective first and second tests. Therefore, for at least this reason, a *prima facie* case of obviousness has not been established over Gartner and Fitting and is defective.”

The Examiner asserts that Gartner discloses a method and means for testing the performance of a database system by referencing files external to the database system using multiple file systems wherein the test files are created in the file systems and a control table in the database management system controls access to the test files (column 2, lines 51-59). Gartner discloses implementing the method by receiving requests from a user via an application programming interface (column 4, lines 30-39) wherein the user supplies a first value, relating to the filename, and a second value, relating to the name of the server/database system under test, (column 5, lines 41-54) over a network using searching and management control units and software routines (column 5, lines 19-29). Gartner then discloses searching the corresponding database and returning query results including the server/database and filename references which are then used to identify the relevant data file (column 6, lines 16-26). Gartner also discloses that the system is applicable for a plurality of users accessing the system files for multiple tests concurrently (column 3, lines 1-2 and column 4, lines 21-23 and 54-59) and therefore teaches

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that described method is performed at different test systems to execute the tests using the same data files.

The Examiner asserts that the invention of Gartner is not included to teach using first and second parameters to identify a file name, but instead the invention of Fitting is included to teach these features and further asserts that Appellant is attacking the references individually arguing that Gartner does not teach the features for which Fitting is relied upon.

Appellant argues that “[i]n Fitting, an empty file is generated by a test system to send to a database server. The database server, form this empty file, generates a database query to obtain a model number. This model number is provided back to the requesting test system by appending the model number to the file name of the empty file. In this way, the products that are being tested do not need to store their model information, since the test systems are able to retrieve the model information based on the identifier of each product. Thus, there is nothing in Fitting to even remotely suggest that first and second test systems use the same data file for performing respective first and second tests. Since neither Gartner nor Fitting teaches or suggests the claimed invention, their hypothetical combination also does not teach or suggest the claimed invention.”

The Examiner asserts that the invention of Fitting is not included to teach the using the same test file for performing first and second tests, but instead this feature is taught by the invention of Gartner and further asserts that Appellant is attacking

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the references individually arguing that Fitting does not teach the features for which Gartner is relied upon.

Appellant argues, "no motivation or suggestion existed to combine the teachings of Gartner and Fitting. Whereas Gartner relates to a testing method and apparatus for evaluating the performance of a database system that includes external file references, Fitting describes a quality control system that uses bi-directional messaging that includes empty files. In the technique of Fitting, a request file having the format <product identifier> <requested data type> is sent to a shared file directory 127. Fitting 4:16-26. In response to this request, a return file is created by the shared file directory 127, where the return file is a renamed version of the request file. Fitting, 4:50-53; 6:39-43. There is absolutely no reason or desirability to incorporate the quality control system of Fitting into the database test system of Gartner."

The Examiner maintains that motivation does exist to combine the teachings of Gartner and Fitting because the invention of Gartner does teach that the first and second parameters are used in combination with each other to specify a location, therefore combining the first and second parameters into one string/filename would have provided a functionally equivalent method for indicating a specific file and location. Further, Fitting suggests that the combination would have increased the speed of the search query, to be substantially real-time, by providing descriptive filenames and therefore eliminating the need for the searching unit to implement the

time-consuming process of reading the data included in the file and instead allowed the unit to search only the filenames themselves (column 1, lines 54-59).

Group 8

Appellant argues "that Gartner also does not disclose or suggest receiving a second value representing a database to perform a test on. The Examiner cited to column 5, lines 41-54, or Gartner for the teaching of receiving the second value representing a database to perform a test on. A closer review of Gartner will reveal that the cited passage actually refers to storing an external file reference within a table, such as table 60, in a database management system. The external file reference refers to an external file system containing test files. These external file references do not constitute the second value representing a database to perform a test on. The test files in the external file system are actually files used during testing of the database system . . . In response to the above arguments, the Examiner stated that the external file references are the databases being tested. 3/11/2004 Office Action 17. This statement contradicts the teaching of Gartner itself, which shows the database system being tested as being DBMS 15. The external file references refers to test files – they are not the databases being tested."

The Examiner maintains that in the invention of Gartner, the DBMS is tested by testing the external file references themselves. Gartner specifically discloses the testing of the external file references, stating, "the invention enables external file references to be randomly tested in a controlled manner" (column 2, lines 39-40).

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The Examiner asserts that in testing a database system, the system is tested by testing the ability of the system to correctly obtain/link reference files. In the invention of Gartner, the "database system 12 includes a conventional database management system (DBMS) 15 that provides views of, and access to, a database kept on one or more database storage devices 16" (column 4, lines 4-7) and, as seen in Figures 1 and 3, the database 16 contains reference to the external file reference.

Group 9

Appellant argues, "[i]n view of the defective rejections of base claims over the asserted combination of (1) Slutz, Fujimori, and Talley or (2) Gartner and Fitting, it is respectfully submitted that the rejections of dependent claims over (1) Slutz, Fujimori, Talley, and Walls, or (2) Gartner, Fitting, and Walls, are also defective."

This argument is not persuasive due to the explanation provided above showing that the combination of Slutz, Fujimori, and Talley and Gartner and Fitting, are proper.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

jrw

July 21, 2005

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